

UNITED STATES DEPARTMENT OF  
**COMMERCE**  
**NEWS**

WASHINGTON, D.C. 20230

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BUREAU OF  
EXPORT  
ADMINISTRATION

For Immediate Release:  
April 13, 1999  
www.bxa.doc.gov

Contacts: Susan Hofer  
Eugene Cottilli  
(202) 482-2721

**MASSACHUSETTS FIRM PENALIZED BY COMMERCE DEPT.**

WASHINGTON -- The Department of Commerce's Bureau of Export Administration today imposed a \$50,000 civil penalty on Schott Fiber Optics, Inc. (Schott), of Southbridge, MA, for alleged illegal exports of fiber optic image inverters from the United States to the Netherlands, Commerce Assistant Secretary of Export Enforcement F. Amanda DeBusk announced.

Fiber optic inverters are used in the manufacture of night vision equipment and are controlled for national security, foreign policy and missile technology reasons. The Department alleged that Schott made 20 exports of inverters to the Netherlands without obtaining the required validated licenses. The shipments took place between November 1993 and April 1994.

Commerce's Office of Export Enforcement Boston field office investigated the case. Schott voluntarily disclosed the alleged violations to the Department. A portion of the penalty, \$10,000, is suspended for one year, provided Schott does not commit any export control violations during that period.

The Commerce Department's Bureau of Export Administration enforces export controls for reasons of national security, foreign policy, nonproliferation and short supply. Criminal penalties, as well as administrative sanctions, can be imposed for violations of regulations.

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF EXPORT ADMINISTRATION  
WASHINGTON, D.C. 20230

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In the Matter of: )  
 )  
SCHOTT FIBER OPTICS, INC. )  
122 Charlton Street )  
Southbridge, Massachusetts 01550, )  
 )  
\_\_\_\_\_  
Respondent )

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified Schott Fiber Optics, Inc. (Schott) of its intention to initiate an administrative proceeding against it pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act),<sup>1</sup> and the Export Administration Regulations (15 C.F.R. Parts 730-774 (1998)) (the Regulations),<sup>2</sup> based on allegations that, on 20 separate occasions between on or about November 9, 1993 and on or about April 22, 1994, Schott violated the provisions of Section 787.6 of the former Regulations by exporting U.S.-origin second generation 18mm

<sup>1</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 Fed. Reg. 44121, (August 17, 1998)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

<sup>2</sup> The alleged violations occurred in 1993 and 1994. The Regulations governing the violations at issue are found in the 1993 and 1994 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1993 and 1994)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to this matter.

fiber optic inverters from the United States to the Netherlands without obtaining the validated licenses that were required by Section 772.1(b) of the former Regulations:

BXA and Schott having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$50,000 is assessed against Schott, \$40,000 of which shall be paid within 30 days from the date of entry of this Order. Payment of the remaining \$10,000 is suspended for a period of one year from the date of entry of this Order and shall thereafter be waived, provided that, during the period of suspension, Schott has committed no violation of the Act, or any regulation, order, or license issued thereunder. Payment shall be made in the manner specified in the attached instructions.


SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 1998)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Schott will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that, as authorized by Section 11(d) of the Act, the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Schott. Accordingly, if Schott should fail to pay in a timely manner the civil penalty set forth above,

the undersigned will enter an Order under the authority of Section 11(d) of the Act denying all of Schott's export privileges for a period of one year from the date of this Order.

FOURTH, that the proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.

  
F. Amanda DeBusk  
Assistant Secretary  
for Export Enforcement

Entered this 13<sup>th</sup> day of April, 1999.

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF EXPORT ADMINISTRATION  
WASHINGTON, D.C. 20230

In the Matter of:	)
	)
SCHOTT FIBER OPTICS, INC.	)
122 Charlton Street	)
Southbridge, Massachusetts 01550,	)
	)
<u>Respondent</u>	)

SETTLEMENT AGREEMENT

This Agreement is made by and between Schott Fiber Optics, Inc. (Schott) and the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), pursuant to Section 766.18(a) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (1998)) (the Regulations),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act).<sup>2</sup>

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<sup>1</sup> The alleged violations occurred in 1993 and 1994. The Regulations governing the violations at issue are found in the 1993 and 1994 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1993 and 1994)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to this matter.

<sup>2</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)) and August 13, 1998 (63 Fed. Reg. 44121 (August 17, 1998)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

Whereas, BXA has notified Schott of its intention to initiate an administrative proceeding against it pursuant to the Act and the Regulations, based on allegations that, on 20 separate occasions between on or about November 9, 1993 and on or about April 22, 1994, Schott violated the provisions of Section 787.6 of the former Regulations by exporting U.S.-origin second generation 18mm fiber optic inverters from the United States to the Netherlands without obtaining the validated licenses that were required by Section 772.1(b) of the former Regulations;

Whereas, Schott has reviewed the proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions that could be imposed if the allegations are found to be true; it fully understands the terms of this Settlement Agreement and the proposed Order; it enters into this Settlement Agreement voluntarily and with full knowledge of its rights, and it states that no promises or representations have been made to it other than the agreements and considerations herein expressed:

Whereas, Schott neither admits nor denies the allegations contained in the proposed Charging Letter;

Whereas, Schott wishes to settle and dispose of all matters alleged in the proposed Charging Letter by entering into this Settlement Agreement; and

Whereas, Schott agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

Now Therefore, Schott and BXA agree as follows:

1. BXA has jurisdiction over Schott, under the Act and the Regulations, in connection with the matters alleged in the proposed Charging Letter.

2. BXA and Schott agree that the following sanction shall be imposed against Schott in complete settlement of the alleged violations of the Act and former Regulations arising out of the transactions set forth in the proposed Charging Letter:

- (a) Schott shall be assessed a civil penalty in the amount of \$50,000, \$40,000 of which shall be paid within 30 days from the date of entry of the appropriate Order. Payment of the remaining \$10,000 shall be suspended for a period of one year from the date of entry of the appropriate Order and shall thereafter be waived, provided that, during the period of suspension, Schott has committed no violation of the Act, or any regulation, order, or license issued thereunder.
- (b) As authorized by Section 11(d) of the Act, the timely payment of the civil penalty agreed to in paragraph 2(a) is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Schott. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Schott's export privileges for a period of one year from the date of entry of the appropriate Order imposing the civil penalty.

3. Schott agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the appropriate Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the proposed Charging Letter; (b) to request a refund of any civil penalty paid pursuant to this Settlement Agreement and the appropriate Order, when entered;

and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of an appropriate Order, it will not initiate any administrative proceeding against Schott in connection with any violation of the Act or the Regulations alleged in the proposed Charging Letter.

5. Schott understands that BXA will make the proposed Charging Letter, this Settlement Agreement, and the appropriate Order, when entered, available to the public.

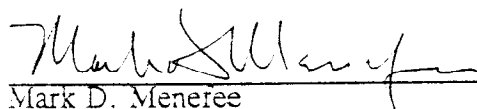
6. BXA and Schott agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.18(a) of the Regulations, BXA and Schott agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that neither party shall be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.



8. This Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have the same force and effect as a decision and Order issued after a full administrative hearing on the record.

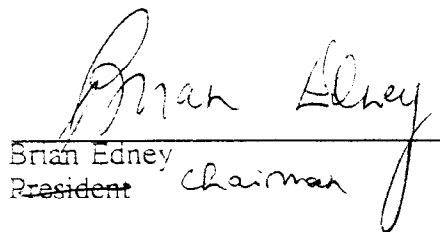
BUREAU OF EXPORT ADMINISTRATION  
U.S. DEPARTMENT OF COMMERCE



Mark D. Menerée  
Director  
Office of Export Enforcement

Date: 4/2/99

SCHOTT FIBER OPTICS, INC.



Brian Edney  
~~President~~ Chairman

Date: 3/19/99

D A Miller  
President  
25 March 99



E618-10

UNITED STATES DEPARTMENT OF COMMERCE  
Bureau of Export Administration  
Washington, D.C. 20230

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Schott Fiber Optics, Inc.  
122 Charlton Street  
Southbridge, Massachusetts 01550

Attention: Brian Edney  
President

Dear Mr. Edney:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described below, Schott Fiber Optics, Inc. (Schott) has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1998)) (the Regulations),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act).<sup>2</sup>

Facts constituting violations:

Charges 1-20

On 20 separate occasions between on or about November 9, 1993 and on or about April 22, 1994, Schott exported U.S.-origin second generation 18mm fiber optic inverters from the United States to the Netherlands without obtaining the validated licenses required by Section 772.1(b) of the former Regulations. Each of those exports is described more fully on the enclosed schedule, which is incorporated herein by this reference. By exporting U.S.-origin commodities to any person or destination in violation of

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<sup>1</sup>The alleged violations occurred in 1993 and 1994. The Regulations governing the violations at issue are found in the 1993 and 1994 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1993 and 1994)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to the matters set forth in this matter.

<sup>2</sup>The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).



or contrary to the terms of the Act, or any regulation, order, or license issued thereunder, Schott violated Section 787.6 of the former Regulations in connection with each of the 20 shipments, for a total of 20 violations.

Accordingly, Schott is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of \$10,000 per violation (see Section 764.3(a)(1) of the Regulations);

Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice before BXA (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If Schott fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

Schott is further notified that it is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with its answer. Schott is also entitled to be represented by counsel, and to seek a settlement of the charges.

Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Accordingly, Schott's answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of Schott's answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Lorie B. Whitaker, Esq." below the address. Ms. Whitaker may be contacted by telephone at (202) 482-5311.

Sincerely,

Mark D. Menefee  
Director  
Office of Export Enforcement

E618-#12

## SCHEDULE OF VIOLATIONS

## SCHOTT FIBER OPTICS, INC.

CHARGE NO.	DATE (ON OR ABOUT)	COMMODITY	DESTINATION	CONSIGNEE REFERENCE NO.	AIR WAYBILL NO.	COMMERCIAL INVOICE
1	11/09/93	18 MM fiber optic image inverters	Netherlands	47721	08738056	2991
2	11/20/93	18 MM fiber optic image inverters	Netherlands	47721	08869604	3026
3	11/28/93	18 MM fiber optic image inverters	Netherlands	47721	08919627	3045
4	12/25/93	18 MM fiber optic image inverters	Netherlands	47721	09196802	3144
5	01/11/94	18 MM fiber optic image inverters	Netherlands	47721	09305668	3161
6	01/15/94	18 MM fiber optic image inverters	Netherlands	47721	09356978	3187

CHARGE NO.	DATE (ON OR ABOUT)	COMMODITY	DESTINATION	CONSIGNEE REFERENCE NO.	AIR WAYBILL NO.	COMMERCIAL INVOICE
7	01/22/94	18 MM fiber optic image inverters	Netherlands	47721	09414694	3207
8	01/27/94	18 MM fiber optic image inverters	Netherlands	47721	09466528	3233
9	02/05/94	18 MM fiber optic image inverters	Netherlands	47721	09552244	3251
10	02/15/94	18 MM fiber optic image inverters	Netherlands	48021	09626855	3269
11	02/19/94	18 MM fiber optic image inverters	Netherlands	48023	09682033	3295
12	02/26/94	18 MM fiber optic image inverters	Netherlands	48023	09749678	3308
13	03/06/94	18 MM fiber optic image inverters	Netherlands	48023	09820387	3337